

\*

UMASS/AMHERST

\*



312066 0270 7563 7







Digitized by the Internet Archive  
in 2013

<http://archive.org/details/annualreporttole1986mass>



MASS. EL 12/3/86

EXECUTIVE OFFICE OF ELDER AFFAIRS

STATE LONG TERM CARE

OMBUDSMAN PROGRAM

GOVERNMENT DOCUMENTS  
COLLECTION

NOV 3 1987

University of Massachusetts  
Depository Copy

ANNUAL REPORT  
TO THE LEGISLATURE  
FISCAL YEAR 1986



Michael S. Dukakis  
Governor

Richard H. Rowland, Ph.D.  
Secretary

Lillian L. Glickman, Ph.D.  
Assistant Secretary for Programs

Susan McDonough  
Long Term Care Ombudsman



## TABLE OF CONTENTS

	<u>Page</u>
Executive Summary.....	1
Introduction.....	4
Services.....	6
Major Accomplishments.....	6
Interagency Work.....	7
Department of Public Health.....	7
Department of Mental Health.....	7
Executive Office of Human Services.....	8
Other Accomplishments.....	8
Local Efforts.....	9
Findings.....	10
Patient Care.....	10
Medicaid Discrimination.....	14
Residents' Rights.....	17
Environment.....	18
Rest Homes.....	21
Activities.....	23
Recommendations.....	25
Appendices	





## EXECUTIVE SUMMARY

The Massachusetts Executive Office of Elder Affairs sponsors the Long Term Care Ombudsman Program. This program provides a process for the 54,000 residents of nursing and rest homes to have complaints and problems investigated and resolved, as well as establishes an advocate for resident rights.

Massachusetts has one of the most successful Ombudsman Programs in the nation and provides extensive services. These services are provided in large measure, by a system of 270 Ombudspeople, most of whom are older volunteers, who weekly visit residents of nursing and rest homes and resolve complaints which arise. In Fiscal Year 1986, the Ombudsmen covered 80% of the facilities, made 877,920 resident contacts, and processed 4,891 complaints and problems which addressed a variety of issues. The Program's complaint processing represented an increase of 35% over FY 1985 and residents contacts rose by 66% over 1985 figures.

For the first time in the history of the Commonwealth, the Secretary, in conjunction with the Long Term Care Ombudsman Program, held a series of ten public hearings for the purpose of identifying barriers to the provision of good quality of care. Nine of the ten hearings were conducted in long term care facilities and provided residents, families, and staff with the unique opportunity to express their views to a member of the Governor's Cabinet.

The Executive Office of Elder Affairs then advocated for issues which were identified as important concerns, including increased nurses aide



wages, standardized training for all nurses aides, and the elimination of Medicaid Discrimination on admission to nursing homes. The Executive Office of Elder Affairs was ultimately successful in having Nurses Aide Training Legislation enacted and achieving a legislatively mandated 10% wage increase for aides and other workers.

The Commonwealth is fortunate because, for the most part, facilities are providing good quality of care. This is a result of the commitment by the long term care industry to care for the most frail and vulnerable elders in Massachusetts, coupled with vigorous enforcement of regulations by the Massachusetts State Agencies, and a strong and effective Ombudsman Program. However, there are problems which were identified which must be addressed in order to ensure that all residents of nursing and rest homes receive quality care and are treated with the dignity and respect they deserve.

This report reflects the findings of the Statewide Ombudsman Program's 4,891 complaints and contains the Executive Office of Elder Affairs' recommendations to address the problems reported.

In an analysis of complaint data and reports from local Ombudsman Programs, six broad areas of concern emerged: patient care issues exacerbated by a lack of appropriately trained staff; Medicaid Discrimination in admitting policies by nursing homes; patients' rights issues; lack of activities; environmental problems; and rest home issues.

The recommendations of this report call for changes to Massachusetts Laws and Regulations as well as new policy initiatives being developed by





the various agencies having jurisdiction over the more than 700 nursing and rest homes as well as the 54,000 residents of these facilities.

The major recommendations of this report are:

- Passage of legislation to eliminate Medicaid Discrimination on admission to nursing homes.
- Increased wages for nurses aides and other support personnel to insure a living wage for nursing and rest home workers.
- Increased resources for the Department of Public Health for additional staff to complete prompt investigations of abuse, mistreatment, and neglect complaints in long term care facilities.

The report also details the major accomplishments of the Statewide Ombudsman Program and contains reports from various state agencies detailing the number and type of complaints processed regarding nursing and rest home residents. This report is intended to be a constructive approach to improving the quality of care and life of our most vulnerable elders.



## INTRODUCTION

The Massachusetts Long Term Care Ombudsman Program is sponsored by the Executive Office of Elder Affairs and operates under both Federal and State enabling laws.

The Ombudsman Program has four main goals:

1. The receipt, investigation, and resolution of nursing and rest home complaints;
2. The protection of the rights of the 54,000 residents of long term care facilities;
3. The provision of information of long term care care issues to residents' families and the general public; and
4. Advocating for positive changes to improve the quality of care and enhance the quality of life of all residents of Massachusetts' nursing and rest homes.

The Statewide Ombudsman Program services are provided by 270 trained Ombudspeople, who work throughout the state in one of the 27 local Ombudsman Programs. Residents of facilities receive weekly visits from an Ombudsman, who is trained to identify and resolve complaints and problems. The vast majority of the 4,891 complaints and problems received in FY'86 were resolved working cooperatively with the staff of the nursing or rest home.

The State Ombudsman Program oversees the operation of these twenty-seven (27) local programs, trains and certifies the Ombudspeople, and provides





technical assistance in complaint resolution. On the state level, the Ombudsman Program acts as the advocate for residents before state agencies, the Legislature, and the long term care industry.

At the conclusion of Fiscal Year 1986, the state-wide program was providing weekly visitation to 613 or 80% of the licensed nursing and rest homes in the Commonwealth an increase from 75% coverage in FY 1985. The continued goals of the Massachusetts Ombudsman Program will be to expand the program to 100% of the facilities and to advocate to improve the services and rights residents receive.



## SERVICES

Weekly visitation to facilities and complaint resolution are the backbone of Ombudsman services. In Fiscal Year 1986, the state-wide program made a total of 24,327 facility visits, 877,920 resident contacts, and processed 4,891 complaints and problems. These figures represented an increase of 66% for resident contacts and a 35% increase for complaints and problems processed over the previous year.

## MAJOR ACCOMPLISHMENTS

On the state level, the State Long Term Care Ombudsman Program advocates for the rights and improved care of the 54,000 residents of long term care facilities. The major activities of the state program were:

1. Quality of Care Hearings: Under the direction of the Secretary of Elder Affairs, a series of ten public hearings were conducted throughout the state to identify barriers to good quality of care for residents. Nine of the ten hearing were conducted in nursing homes to provide residents the opportunity to testify. The Executive Office of Elder Affairs published a report on the hearings and recommendations in February of 1986. The Executive Office of Elder Affairs also used the testimony received as the basis for many of its legislative and regulatory reforms for Fiscal Year 1986 and 1987.
2. Nurses Aide Wages: The issue of low pay for nurses' aides was identified as a major barrier to residents receiving good quality of care. Testimony at the hearings identified that facilities were unable to attract nurses aides in homes because the wages being offered could not compete with those of the fast food chains. A massive campaign was initiated by the Executive Office of Elder Affairs to include a wage increase for nurses aides in the 1987 State Budget. The efforts were successful. The Legislature included a six percent (6%) wage increase for nurses' aides in the budget in addition to four percent (4%) overall increase for nursing home costs for a total increase in wages of ten percent (10%) for most nurses aides and other staff.
3. Nurses Aide Training: The Executive Office of Elder Affairs filed a bill which required that all nurses aides be trained. This bill was passed by the Legislature and signed into law by the Governor on December 8, 1986. The new law requires that all aides receive a mandatory sixty (60) hour training program. We expect this law





will have a major impact on the quality of care which residents receive.

4. Equal Access to Nursing Homes: Medicaid discrimination on admission to a nursing home is a common problem faced by many elders and families. Despite existing laws and regulations which prohibit Medicaid discrimination, the Commonwealth lacks a simple way to enforce these laws. The Executive Office of Elder Affairs filed and actively advocated for a bill which would require all facilities to keep waiting lists and admit people as their names appear on the sequential waiting list. While the bill did not pass in the 1986 Legislative Session, the enormous efforts to educate Legislators, state agencies, advocacy groups, elders, and the general public about the problem of Medicaid discrimination will serve as a strong basis for the 1987 Legislative Advocacy efforts to eliminate Medicaid discrimination.

### INTERAGENCY WORK

The Ombudsman Program works closely with many state agencies which have jurisdiction over long term care facilities and/or the 54,000 residents.

Department of Public Health - Activities in conjunction with the Department of Public Health included:

- The Ombudsman Program reported 106 cases of abuse, mistreatment, and neglect during Fiscal Year 1986.
- As a members of the Department of Public Health Long Term Care Advisory Committee, the State Ombudsman assisted in the development of regulations which addressed:
  - ° Expanded role of nurse practitioners in nursing homes;
  - ° Protections for residents Personal Needs Allowances;
  - ° Protections for residents of facilities which voluntarily close; and
  - ° The development of a new type of rest home which houses large numbers of residents with mental health needs.

Department of Mental Health - The State Long Term Care Ombudsman Program participated in an interagency task force which was formed to addressed the



needs of the mentally retarded clients in nursing and rest homes who were the subject of a Federal Court Order. Reforms which were developed include:

- Local meetings and training programs between Ombudsman Program Directors and Area Mental Health Coordinators;
- Improved complaint processing for residents who are mentally retarded; and
- Expanded participation for all residents in community sponsored programs.

Executive Office of Human Services - The State Long Term Care Ombudsman Program participated on the Bed Need Planning Committee.

This Committee will make recommendations to change the current Determination of Need Program and Bed Planning Process. The efforts of this Committee will hopefully enhance elders' access to long term care facilities.

#### OTHER ACCOMPLISHMENTS

Other areas of accomplishment for the State Long Term Care Ombudsman Program include presentations, training programs, and interagency work to bring about positive changes to the Long Term Care System.

#### Training

- °In addition to certification training provided to all Ombudsmen, the State Long Term Care Ombudsman Program developed and presented a comprehensive in-service training program on Patient Care Assessment to local Ombudspeople to enable them to address problems of patient care and specifically recognise instances of patient abuse and neglect.
- °Training programs were conducted in conjunction with the successful Elder Advocates training program to inform elders about patient abuse in nursing and rest homes, as well as how to recognize and report it.





°Numerous presentations were made by State and Local Ombudsmen to community groups, corporations, residents' councils, advocacy groups, and state agency staff on "Residents Rights."

### LOCAL EFFORTS

In additions to the day-to-day efforts to resolve residents complaints, Local Ombudsman Programs are actively working to address quality of life and care issues on the local level. Some examples of their efforts include:

- Expanded the visiting hours of a facility to permit greater involvement by visitors in the lives of residents.
- Resident and Family Councils were given assistance by Ombudsman Programs to form and have their concerns addressed.
- Two Ombudspeople not only encouraged residents of the area nursing and rest homes to join walking clubs, but also were able to identify sponsors to purchase official program tee-shirts for all participating residents.
- Developed complex plans on the local level to address the problem of abusive visitors to residents in nursing and rest homes. These plans included coordinating the efforts of the facility staff, protective services agencies, legal services, and often the police.



## FINDINGS

As part of the Massachusetts enabling statute for the Long Term Care Ombudsman Program, the State Ombudsman is required to file an Annual Report to the Legislature of the findings of the Ombudsman Program for the fiscal year as well as recommendations to address the problems identified by the Long Term Care Ombudsman Program.

In Fiscal Year 1986, the State Long Term Care Ombudsman Program processed nearly 5,000 complaints and problems. The majority of these complaints and problems were registered by residents of nursing and rest homes. The findings of the State Long Term Care Ombudsman Program, therefore, reflect the problems encountered by the consumers of the service, the residents and their families.

In a review of the complaints, six broad categories of concern emerged: patient care, environment, patients rights, Medicaid Discrimination, activities, and rest homes. Several of these concerns have been identified in previous years. However, 1986 was a year in which positive strides were made in improving the quality of life and care which residents receive.

## PATIENT CARE

The Demographics of the nursing home resident have indicated that over the past ten years, the residents have become older and more debilitated. A recent study by the Department of Public Health (1986) supports this premise. The average age of the residents in both skilled nursing and intermediate care facilities has risen by more than two years, and for both groups, the average age is now in the 80s. Additionally, a significant



percentage of the residents require assistance in feeding, bathing, and dressing. In 1985, it was estimated that 59% of the skilled Level 2 residents were incontinent. This represents an increase of 25% over 1975.

Unfortunately, these new demands are being placed on the long term care industry at a time when the industry is suffering an acute shortage of appropriately trained staff to care for residents.

- An 89 year old female resident's family complained that they were called one night and asked to come to the hospital immediately because the resident needed emergency surgery to amputate the resident's leg. In reviewing the resident's medical records at the nursing home, only one entry was found which indicated the leg was discolored, dated the day before the amputation.

The doctor at the hospital told the family the problem could not have happened overnight. The family believed that if the facility were staffed properly, the resident's medical problem might have been noticed in time to prevent her leg from being amputated.

- A male resident of a nursing home stated he wanted to learn how irrigate his catheter. Too often he heard residents call and cry for help that did not come. The resident believed the shortage of help was a major factor. On the previous Saturday, there was one aide on duty to care for 44 residents.

These complaints were received by the Ombudsman Program and subsequently referred to the Department of Public Health who found both to be justified and order the facilities involved to make corrective actions.

While the vast majority of the thousands of people employed by the long term care industry are committed to providing good care, many nursing home administrators speak of their frustration of having to hire people who might not be appropriate in order to meet minimum staffing patterns. The shortage of staff on nights and weekends is particularly acute.

Staffing shortages have led to a dramatic increase in the use of "pool" or temporary nursing agencies. Recent studies by the Massachusetts





Federation of Nursing Homes' Long Term Care Foundation indicate an average increase of 111% over the January, 1985 nursing pool costs. Agency staff are unfamiliar with the individual resident's needs and often possess no prior experience or training. The types of complaints which residents have regarding pool staff are callous attitudes and the agency staff confusing medications or diets of residents. The dependence on temporary nursing agencies or pools is approaching a crisis.

Historically, nursing and rest homes have paid lower wages to nurses and aides than their counterparts - hospitals. The 1986 wage increase for aides and other nursing home personnel was a positive step. However, a more comprehensive solution to this labor crisis must be developed which will address wages and benefits, identification of new labor pools, career ladders for employees, and positive working environments.

In order to provide the care for the older more debilitated residents, it is clear more staff are needed. However, before initiatives are undertaken to increase the current Massachusetts minimum licensure standards for nursing care, the system must be changed in order to address the problems the industry currently faces in attracting and maintaining qualified staff.

Another major concern in the provision of quality of care is the changing complexion of the long term care industry. Homes that were once family-owned businesses, have now been acquired by large, national corporations. While corporate ownership does not signify poor patient care, there have been several instances in Massachusetts and in other states, where the quality of care of residents has suffered as a result of



changes in licensees. The current suitability review by the Department of Public Health of potential licensees is insufficient to meet today's needs and must be expanded in order to truly act as a gatekeeper of licensees who will ensure good quality of care. Additionally, the present delays by the Department of Public Health in completing thorough abuse, mistreatment, and neglect investigations must be eliminated to insure residents safety.





## MEDICAID DISCRIMINATION

In the Commonwealth of Massachusetts, participation by a facility in the Medicaid program is voluntary. The Provider Agreement which facilities sign in order to participate contains a provision that the facilities agree to comply with all laws governing the Medicaid program. Included in this, is an agreement that facilities will not discriminate against Medicaid recipients in the provision of services or accommodations. However, despite the laws and regulations prohibiting discrimination, many facilities engage in discrimination on admission. Also, there is discrimination when former private-paying residents convert to Medicaid and then are transferred to a less desirable room, making way for a new private resident.

In 1986, members of the Attorney General's staff posed as relatives of an elder seeking placement in a nursing home. Using two teams, one posing as a potential private resident's family and the other as a Medicaid applicant's family, the teams attempted to locate a bed in nursing homes. The findings of the Attorney General supported the findings of the Ombudsman Program and the recent University of Massachusetts Gerontology Program Report (1986) which showed that discrimination on admission is a terrible problem confronted by elders in need of a nursing home bed. The conclusions of the Attorney General's investigations resulted in rulings against ten Massachusetts facilities for practicing Medicaid Discrimination. It also pointed to the lack of a viable enforcement process for elders to use to protect themselves against Medicaid Discrimination.



The Statewide Ombudsman Program receive hundreds of inquires during Fiscal Year 1986 regarding discriminatory practices by facilities on admission and in room placements. Several cases which reflect this problem follows:

1. The family of an eighty-five year old male in need of level 3 care, called a nursing home which had a vacant semi-private bed. Upon learning the prospective resident would be on Medicaid, the facility staff informed the relative that it was not the facility's policy to place Medicaid residents in the more desirable, semi-private rooms. The Medicaid resident would have to wait until a bed became available in a multiple bedroom.
2. A husband and wife shared a room in a facility for several years. Upon the husband's death, his pension stopped, requiring the wife to apply for Medicaid. Two days after the husband's death, the wife was moved to a different room in order to make the room available to private-paying residents.

Both cases illustrate the problems faced by elders who are the subject of Medicaid Discrimination. The Ombudsman Program was only able to assist the gentleman in the first case. The woman in the second case was so distraught over the loss of her husband, she refused efforts to assist her in keeping the bed.

Discrimination at the time of placement is particularly cruel. For many elders and their families, the decision to seek nursing home placement is made during a crisis, either after the elder has been receiving assistance at home or as a result of a medical condition that necessitated the elder's being hospitalized. Medicaid residents in hospitals often wait for months for a bed and are forced to take the first available bed. There is usually no choice for a Medicaid recipient.

Unfortunately, few elders and their families are aware of their rights and are willing to pursue them in cases of Medicaid Discrimination. Many are



unaware of the subtle ways by which facilities discriminate. The responses families usually receive after they mention Medicaid as a source of payment are "We do not keep waiting lists, please call again." Families often feel that if they seek help and the facility is forced to take the person as a resident, that the facility might retaliate against the elder.





## RESIDENTS' RIGHTS

Among the most diversified complaints which the Ombudsman Program receives are those that involved violations of residents' rights. The range is as broad as staff calling residents by their first names to abuse, mistreatment, and neglect.

Massachusetts' residents have several laws which were specifically established to protect elders living in nursing and rest homes. Despite these laws and accompanying regulations, the Ombudsman Program received 621 patients' rights complaints and an additional 106 complaints which involved abuse, mistreatment, and neglect.

Many times, the violations of the residents' rights are committed by staff who have not received training on providing patient care with dignity, such as performing a medical treatment on a resident in a dining room full of other residents. Other violations reflect the staff holding paternalistic attitudes towards elders, often treating the older person as a child.

- An elderly woman reported to the Ombudsman that she had been forbidden to leave the facility by the Administrator because the resident had violated the smoking policy.
- In another facility, residents complained that their mail was always delayed because they had to wait for the social worker to review it daily.
- An elderly man was observed by the Ombudsman to be very upset. When questioned, he reported that the aide has insisted that he wear clothing that was not his.
- A resident with a private room returned from weekend visits with his family and discovered, on several occasions, that his room was being used as a morgue which upset him greatly.



Those acts by facility staff which are knowingly committed are often the cruelest. Staff have been observed taunting residents about a certain infirmity or physical deformity. Other residents have had hundreds of dollars of their Personal Needs Allowance missing which will never be returned to the resident because the facility failed to keep proper accountings and the resident were unable to keep track of the funds.

There are still facilities in the Commonwealth that fail to provide, as is required by law and regulations, locked drawers and handicapped accessible telephones for the residents. Several facilities installed locked drawers and then refused to give the residents the key because the facility felt the resident might lose it.

While the Ombudsman Program continues to work with residents to address violations of residents rights, many residents do not complain for fear of retaliation. Family members often caution residents not to complain for of the facility will force the resident to leave. While the majority of the Commonwealth facilities do encourage residents to exercise their rights, there have been cases of retaliation reported to the Ombudsman Program by families and residents.

### ENVIRONMENT

Nursing and rest homes, unlike other health care facilities, become the homes for the elders residing in them; therefore, environmental factors in nursing and rest homes are crucial. The Department of Public Health regulations state "all patient or resident areas shall be cheerful, homelike, pleasant, clean, well-kept, free from unpleasant odors, sights





and noises, and maintained in good repair." Residents consider that environmental factors have a substantial impact on the quality of their lives and care in long term care facilities.

Environmental factors would include the type and maintenance of residents' rooms, bathrooms, common areas, access to the outside, fire safety and activities geared to make the facility more homelike.

In Massachusetts there are facilities that have rooms shared by six residents and bathrooms used by multiple numbers of elders of both sexes. While current construction standards require adequately spaced, well-lighted and ventilated rooms, there are facilities that are older and are unable to meet the current requirements. These facilities, many of which are rest homes, have waivers from the Department of Public Health, to exempt them from the standards. Typical problems confronted by the Ombudsman Program are lack of a call bell system and the lack of handicapped access to and from the facilities.

- Two wheelchair bound residents of one home in Southeastern Massachusetts have not been able to go out of doors for more than one year because the facility is not handicapped accessible. The residents are basically held captive in their facility because the facility lacks the ramps to enable them to go out. The Ombudsman Program has serious concerns as to these residents' as well as others' ability to be evacuated in the event of a fire.
- A rest home in the Boston area roped off the main staircase leading to the second floor because of structural problems and the ceiling falling in above the staircase. The residents, many of whom require assistance to ambulate are forced to climb down the steep winding staircase in the rear of the building in order to get their meals.
- Another rest home located in Western Massachusetts was reported to the Department of Public Health for the following:
  1. toilets that did not function;
  2. fecal material on the toilet that did work;



3. lights without light bulbs;
4. dark hallways;
5. floors in residents' rooms that were sticky and smelled of urine; and
6. dark and dingy walls.

These complaints represent more than poor housekeeping or a lack of maintenance. These are facilities licensed by the Commonwealth, to provide care to our frail elders. There are many alert residents in these homes who are aware of the poor conditions, the lack of space, the lack of privacy, and the lack of common areas to hold activities or meals and express their frustrations and feelings of isolation to the Ombudsman Program. The residents find little in these facilities to remind them of a home.

While certain renovations might be costly, it is important to remember that these facilities are the homes of the elders and the Commonwealth of Massachusetts has an obligation to insure that they are warm, comfortable, and homelike. The Department of Public Health must examine the conditions in the older facilities, and reassess the waiver process.



## REST HOMES

One of the major findings identified in last year's report was the problem of deinstitutionalized elders residing in rest homes and the general problems encountered by any residents of rest homes.

Improvements have been made in the past year to address the problems of the deinstitutionalized in rest homes. The Department of Public Health has promulgated regulations for rest homes with residents who have mental health problems which will require the designated facilities to hire qualified staff to oversee the medical and psychological requirements of these residents. These new regulations will also require the facility to arrange for other services from the community which will meet the residents' special needs.

However, for those elders residing in rest homes which do not have populations of mental health residents, the issues have not been addressed. The regulations continue to require minimal staffing, and minimal requirements for activities, social service, and nursing. If the trend identified by the Department of Public Health for nursing homes having older and more dependent residents is similar in rest homes, the need for better services is even more crucial.

Over the last year, many of the very serious complaints received by the Ombudsman Program have involved rest homes. Poor care, violations of residents' rights, mishandling of residents' Personal Needs Allowances, physical environment of the facility, and lack of supervision are common complaints.





- A resident stated that the owner of the rest home routinely opens her mail and brings the checks in for the resident to sign. When the resident protested, the owner threatened to have her "put in a mental hospital."
- A rest home provided little supervision to a resident, who in anger, burnt several other residents with his cigarette.
- The responsible person in a rest home gave the wrong medications to residents on several occasions. The same person was overheard by the Ombudsman asking a disoriented resident if he, the responsible person had given the resident her medication yet.

Rest homes increasingly require greater scrutiny, and yet, rest homes are surveyed usually once every two years. In addition to deteriorating physical plants, the lack of standards and minimum requirements for staffing have resulted in residents living in situations where their medical, psychological and social needs are not met, and no attempts are made to increase their independence.



## ACTIVITIES

A diverse activities program is a crucial element in the facilities overall atmosphere. Without activities, many residents do not leave their rooms or are found sitting in one room watching television day-after-day. A good activities program that involves all residents does much to contribute to the residents' well being.

The components of a appropriate activities program include a trained, experienced activities director, proper planning and sufficient funds to conduct programs and buy supplies. The Rate Setting Commission reimburses facilities for the costs associated with these, and yet, many facilities lack good programs.

One reason associated with a poor activities program is the lack of trained activities directors who understand the recreational needs of elders. The activities director designates individuals who have little or no formal training, and are often those who perform other tasks at the facility. Endless bingo games are a result. Bed bound elders who are unable to attend the games are ignored and left to lie in their beds. Similarly, visually or hearing impaired elders who are not able to participate in the mainstream of the activities because of their handicaps are also ignored.

Funds to perform activities are essential. Many times the Ombudsman Program receives complaints from well-trained, dedicated activities directors who are frustrated in their efforts to provide well-balanced activities. Because the facility fails to allocate sufficient funds,



residents are often asked to buy materials or activities directors purchase materials with their own salaries to provide for the residents needs. Many programs for handicapped elders require the involvement of outside agencies. Reports to the Ombudsman Program indicate some facilities are unwilling to cooperate with other agencies, thereby denying residents access to valuable services

- A facility Administrator told the Activities Director that \$38 dollars had been allocated for activities supplies for the year.
- On Halloween, an untrained Activities Director dressed all the residents, who were confused, in costumes similar to those worn by children, with little regard to the residents' dignity.

Conversely, in those facilities that have active programs there are games, crafts, outings, current event discussion groups, reality orientation programs, cooking classes, and films in addition to the bingo games. Residents who cannot read, have talking books, bed bound elders have activities that make them use their minds and bodies in order to keep active and as independent as possible.

Activities that recognize the residents as older people with diversified interests are often the difference between a purely clinical setting and a long term residence.





## RECOMMENDATIONS

The Executive Office of Elder Affairs' Long Term Care Ombudsman Program submits the following recommendations to improve the quality of care and life of the 54,000 residents of long term care facilities and to improve access to appropriate care.

### LEGISLATIVE

#### Quality of Care

- ° The Legislature should enact legislation to revise and strengthen the Suitability Program within the Department of Public Health to ensure a comprehensive review of the potential licensee's ability to provide good quality of care.
- ° The Legislature should provide for increased wages for nurses aides and other support personnel to insure a living wage for nursing and rest home workers.
- ° The Legislature should also establish a Special Legislative Commission to examine the labor shortage in the long term care industry.
- ° The Legislature should appropriate funds for the Department of Public Health to hire additional staff to correct the delay in investigations of abuse, mistreatment, and neglect complaints and permit the timely investigation of other patient care complaints.

#### Medicaid Discrimination

- ° The Legislature should enact a bill which would create an equitable system of admission to nursing and rest homes. The bill should provide a mechanism to enforce existing laws which prohibit Medicaid Discrimination.

### REGULATORY CHANGES

#### Quality of Care

- ° The Department of Public Health should revise the staffing requirements for long term care facilities to more accurately reflect the expanded needs of the residents for more intensive nursing and restorative care.

#### Improved Access

- ° The Executive Office of Human Services should develop a new process to expand the number of nursing home beds in the Commonwealth. The new system focus on creating more beds in those areas of the Commonwealth which are unserved as well as targeted urban areas.



- ° The Attorney General, under the Consumer Protection Statute M.G.L. 93A, should promulgate regulations governing admissions contacts to nursing home areas. These regulations, at a minimum, must address waivers of liability by the resident for gross negligence by the facility.

### Residents' Rights

- ° The Attorney General's Office should amend the regulations related to long term care residents' rights to remove the present ability of a physician to revoke a resident's rights because it is medically contraindicated.
- ° The Department of Public Health should amend the Long Term Care Licensure Regulations to require facilities to provide in-service training for all staff on residents' rights and abuse reporting at a minimum of twice a year.

### Environment

- ° The Department of Public Health should require all facilities to alarm exterior doors in hazardous or remote areas.
- ° The Department of Public Health should reassess the waivers that are presently granted to facilities that do not meet life safety code, environmental requirements and accessibility standards and require facilities to make the necessary corrections.

### Rest Homes

- ° The Department of Public Health should amend the long term care regulations regarding rest homes to increase the staff in all rest homes to meet the medical, social, and psychological needs of the residents.

### Activities

- ° The Department of Public Health should set qualifications or professional standards for activities directors.
- ° The Rate Setting Commission shall establish policies that would encourage facilities to develop comprehensive activities programs.



**Ececutive Office of Elder Affairs  
Long Term Care Ombudsman Program**

**Program Services and Staffing**

<u>PROGRAM SERVICES</u>	<u>FY 1985</u>	<u>FY 1986</u>	<u>INCREASE</u>	
			<u>#</u>	<u>%</u>
Facilities Visited Regularly	582	613	31	+ 5%
Total Visits to Facilities	21,531	24,327	2,796	+ 13%
Resident Interviews	529,250	877,920	348,670	+ 66%
Complaints Investigated	3,628	4,891	1,263	+ 35%
Request for Information and Referrals	2,434	3,911	1,477	+ 61%
-----				

<u>STAFFING IN FISCAL YEAR 1986</u>	<u># People</u>	<u>% of Total</u>
State Level Staff	8	2.9
Substate Program Staff:		
Local Ombudsman Directors	27	9.7
Volunteers	114	41.0
Elder Service Corps	73	26.3
Senior Aides	35	12.6
Others	<u>21</u>	<u>7.6</u>
Total Substate Staff	270	97.1
TOTAL PROGRAM STAFF	278	100.0

The largest proportion of Ombudsman Program Staff are Volunteers (41%) who along with Elder Service Corps' people with 26% of staff comprise over three-fourths of the total program staff.





## Executive Office of Elder Affairs

## Long Term Care Ombudsman Program

## Complaints Investigated      Fiscal Year 1986

COMPLAINT CATEGORY	#	% Of Total
<b>RESIDENT CARE</b>		
Patient Care	1071	21.9
Lack of Professional Services	189	3.9
Quality of Professional Services	154	3.1
Physician Services	73	1.5
Abuse and Neglect	106	2.2
<b>Subtotal</b>	<b>1,593</b>	<b>32.6</b>
<b>RESIDENT RIGHTS</b>		
Patient Rights	453	9.3
Missing Items	168	3.4
<b>Subtotal</b>	<b>621</b>	<b>12.7</b>
<b>ADMINISTRATIVE PROBLEMS</b>		
Policies	247	5.1
Personnel	124	2.5
Transportation	35	0.7
<b>Subtotal</b>	<b>406</b>	<b>8.3</b>
<b>FOOD AND NUTRITION SERVICES</b>	442	9.0
<b>FINANCIAL ISSUES</b>	275	5.6
<b>INCIDENTS IN FACILITY</b>	204	4.2
<b>INCIDENTS BETWEEN RESIDENTS</b>	134	2.7
<b>BUILDING AND SANITATION</b>	198	4.0
<b>ADJUSTMENT AT FACILITY</b>	140	2.9
<b>COMMUNITY PLACEMENT</b>	99	2.0
<b>LEGAL PROBLEMS</b>	92	1.9
<b>FORMALIZED ACTIVITIES</b>	86	1.8
<b>CLOTHING, CONDITION OF</b>	104	2.1
<b>LACK OF VISITORS</b>	69	1.4
<b>OTHER (Family Problems, Outside Social Service Agency, etc.)</b>	428	8.8
<b>TOTAL COMPLAINTS</b>	<b>4,891</b>	<b>100.0</b>



# Long Term Care Complaints Received by

## State Regulatory Agencies

Fiscal Year 1986

COMPLAINT CATEGORY	ELDER AFFAIRS	PUBLIC HEALTH	PUBLIC WELFARE	ATT'Y GEN'L	BOARD OF REG. N.H. ADM.	TOTAL	% OF TOTAL
<b>IDENT CARE</b>							
Patient Care	1071	191	-	-	-	1262	20.7
Lack of Professional Services	189	87	-	-	-	276	4.5
Quality of Professional Services	154	54	-	-	7	215	3.5
Physician Services	73	17	-	-	-	90	1.5
Abuse and Neglect	106	248	-	196	-	550	9.0
Subtotal	(1593)	(597)	-	(196)	(7)	(2393)	(39.3)
<b>IDENT RIGHTS</b>							
Patient Rights	453	91	-	-	-	544	8.9
Missing Items	168	-	-	-	-	168	2.8
Subtotal	(621)	(91)	-	-	-	(712)	(11.7)
<b>MINISTRATIVE PROBLEMS</b>							
Policies	247	71	35	-	-	353	5.8
Personnel	124	5	-	-	-	129	2.1
Transportation	35	-	-	-	-	35	0.6
Subtotal	(406)	(76)	(35)	-	-	(517)	(8.5)
<b>OD AND NUTRITION SERVICES</b>	442	49	-	-		491	8.1
<b>NANCIAL ISSUES</b>	275	5	4	16	2	302	5.0
<b>ICIDENTS IN FACILITY</b>	204	12	-	-	-	216	3.5
<b>ICIDENTS BETWEEN RESIDENTS</b>	134	-	-	-	-	134	2.2
<b>BUILDING AND SANITATION</b>	198	78				276	4.5
<b>JUSTMENT AT FACILITY</b>	140	-	-	-	-	140	2.3
<b>COMMUNITY PLACEMENT</b>	99	-	-	-	-	99	1.6
<b>LEGAL PROBLEMS</b>	92	-	-	-	-	92	1.5
<b>ORMALIZED ACTIVITIES</b>	86	16	-	-		102	1.7
<b>CLOTHING, CONDITION OF</b>	104					104	1.7
<b>LACK OF VISITORS</b>	69					69	1.1
<b>OTHERS (Family Problems, Outside Social Service Agency Etc.)</b>	428	19				447	7.3
<b>TOTAL COMPLAINTS</b>	4,891	943	39	212	9	6,094	100.0



OUTCOMES OF INVESTIGATIONS BY STATE AGENCIES

FISCAL YEAR 1986

Executive Office of Elder Affairs

Total Complaints	4,891
Percent Justified	81%
Referrals to DPH	187
Referrals to AG	8

Department of Public Health

Total Complaints	943
Percent Justified	36%
Consultation Provided	228
Deficiency Letters Sent	174
Referrals to AG Office	94

Department of Public Welfare

Decertifications:

Nursing Homes	4
Beds	271
Levels I and II (SNF)	40
Level III (ICF)	231

Recertifications:

Nursing Homes	1
Beds (level III)	38

Relocation of Patients:

To Level II (SNF)	14
To Level III (ICF)	90
To Level IV (Rest Home)	16
To Home	3

Office of the Attorney General

Total Abuse and Neglect Complaints	196
Criminal Investigations Conducted	36
Criminal Prosecutions	3
Criminal Convictions	1





# OUTCOMES OF INVESTIGATIONS BY STATE AGENCIES

PAGE TWO

Referrals for Civil Administrative Action	160
Department of Public Health	153
AG Consumer Protection Division	2
Local Police	2
Executive Office of Elder Affairs	1
Board of Reg. of Nursing	1
State Police/DA	1

Total Personal Needs Allowance Complaints	16
Criminal Convictions for Larceny	1
Restitution Secured (\$90,000)	2
Cases Pending	10
Complaints Not Justified	3

## Board of Registration of Nursing Home Administrators

Total Complaint Cases	9
Revocation of License	1
Suspension of License for Indefinite Period of Time	1











